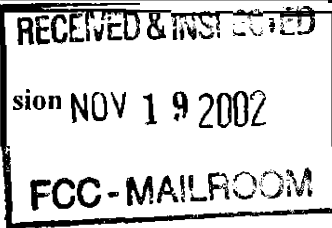


Before the
Federal Communications Commission
Washington, DC 20554



In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Wm. H. & Lucy F. Rand Memorial Library)
Yorth Troy, Vermont)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association: Inc.)

File No. SLD-267302

CC Docket No. 96-45

CC Docket No. 97-21✓

ORDER

Adopted: November 15, 2002

Released: November 18, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Wm. H. & Lucy F. Rand Memorial Library (Rand Memorial), North Troy, Vermont, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Rand Memorial seeks review of SLD's denial of its corrected application for discounts under the schools and libraries universal service support mechanism, following the rejection of Rand Memorial's original application for failure to satisfy minimum processing standards.² For the reasons set forth below, we deny the Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to SLD a completed FCC Form 470, in which the applicant sets forth its technological

¹ Letter from Nancy Allen, Wm. H. & Lucy F. Rand Memorial Library, to Federal Communications Commission, filed April 8, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that **any** person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

needs and the services for which it seeks discounts.⁴ Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵ Using information provided by the applicant in its FCC Form 471, the Administrator determines the amount of discounts for which the applicant is eligible.⁶

3. At the start of an application review, SLD utilizes what it calls "minimum processing standards" to facilitate the efficient review of the thousands of applications requesting funding.⁷ These minimum processing standards require an applicant to provide at least the basic data necessary for SLD to initiate review of the application under statutory requirements and Commission rules. When an applicant submits an FCC Form 471, SLD performs an initial visual inspection of the application to determine if the application has omitted an item required by the minimum processing standards. In such a case, SLD automatically returns the application to the applicant without considering the application for discounts under the program.⁸

4. At issue is Rand Memorial's application for discounts in Funding Year 2001.⁹ On August 17, 2001: after the Funding Year 2001 filing window had closed on January 18, 2001, SLD rejected Rand Memorial's original FCC Form 471 for failure to satisfy minimum processing standards.¹⁰ Specifically, SLD found that the Block 4 worksheet was not completed, because Rand Memorial had not specified any schools or libraries that would be receiving services.¹¹ On September 27, 2001, Rand Memorial submitted a corrected application, but, because it was received after the January 18, 2001 close of the filing window, SLD issued a

⁴ 47 C.F.R. § 54.504(b)(1), (b)(3)

⁵ 47 C.F.R. § 54.504(c).

⁶ 47 C.F.R. § 54.504(c).

⁷ 47 C.F.R. § 54.504(c); see SLD website, Form 471 Minimum Processing Standards and Filing Requirements, <<http://www.sl.universalservice.org/reference/471mps.asp>> (Minimum Processing Standards).

⁸ Minimum Processing Standards

⁹ In prior years, this funding period was referred to as Funding Year 4. Funding years are now described by the year in which the funding period starts. Thus the funding period which begins on July 1, 2001 and ends on June 30, 2002, previously referred to as Funding Year 4, is now called Funding Year 2001. The funding period which begins on July 1, 2002 and ends on June 30, 2003, is now known as Funding Year 2002, and so on.

¹⁰ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Nancy Allen, Wm. H. and Lucy F. Rand Memorial Library, dated August 21, 2001 (Rejection Letter). The filing window for Funding Year 2001 closed on January 18, 2001. See SLD website, FCC Form 471 Window Opens for Year 4 Applicants: New Filing Requirements Firmly Established (November 2, 2000) <<http://www.sl.universalservice.org/whatsnew/112000.asp#110200>>.

¹¹ Rejection Letter. See also FCC Form 471, Wm. H. and Lucy F. Rand Memorial Library, filed January 17, 2001 (Original Form 471).

postcard indicating that the application was untimely and would not be funded.¹² Following an unsuccessful appeal to SLD, Rand Memorial filed the pending Request for Review.¹³

5. In its Request for Review, Rand Memorial argues that its application should not have been denied as untimely because it was originally submitted on January 17, 2001, before the close of the filing window." However, we find that this original application was properly rejected for failure to satisfy minimum processing standards, and it is well-established that the submission of a corrected application following a proper minimum processing standards rejection is treated as the filing of a new application." Further, we have also repeatedly held that the inability to meet the filing window resulting from the need to file a corrected version after a minimum processing standards rejection is not a circumstance warranting relief.¹⁶

6. Rand Memorial also asserts that it was unable to complete its application on-line and did not receive any help for the omission, and that Rand Memorial and its community would be affected by the decision. Construing Rand Memorial's argument as a request for a waiver of the filing window for its corrected version, we find that a waiver is not appropriate. Although the Commission may waive any provision of its rules, a showing of good cause must support a waiver request.¹⁷ A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule." However, we find that Rand Memorial's inability to complete an on-line application is not a circumstance excusing the omission in its manually-filed application. Further, we have repeatedly found that the financial need of applicants is not a

¹² FCC Form 471, Wm. H. and Lucy F. Rand Memorial Library, filed September 27, 2001; Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Nancy Allen, Wm. H. and Lucy F. Rand Memorial Library, dated November 28, 2001.

¹³ See Letter from Nancy Allen, Wm. H. and Lucy F. Rand Memorial Library, to Schools and Libraries Division, Universal Service Administrative Company, filed January 7, 2002 (Appeal to SLD); Letter from Schools and Libraries Division, Universal Service Administrative Company, to Nancy Allen, Wm. H. and Lucy F. Rand Memorial Library, dated February 5, 2002.

¹⁴ Request for Review at 1.

¹⁵ See *Request for Review by Town of North Providence School Department, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-230703, CC Dockets No. 96-45 and 97-21. Order, DA 02-1616, paras. 2-3 (Wireline Comp. Bur. rel. July 10, 2002).

¹⁶ *Id.* at para. 3.

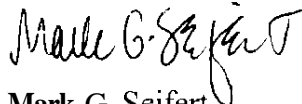
¹⁷ 47 C.F.R. § 1.3; see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1158 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972) (*WAIT Radio*).

¹⁸ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio*, 418 F.2d at 1159 (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis).

circumstance warranting waiver of the window.” We therefore deny the Request for Review and affirm SLD.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Wm. H. & Lucy F. Rand Memorial Library, Troy, Vermont, on April 8, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁹ See Request for Review by Northern Waters Library Service, Federal- State Joint **Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.**, File No. SLD-I 83 124, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 1756, para. 7 (Com. Car. Bur. 2002).